

E-002, 124/SA-90-255 ORDER DENYING REQUEST

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of a Request by
Mr. Ronald Vesely to Receive
Electric Service from Northern
States Power instead of
Minnesota Valley Electric
Cooperative

ISSUE DATE: November 30, 1990

DOCKET NO. E-002, 124/SA-90-
255

ORDER DENYING REQUEST

PROCEDURAL HISTORY

On February 1, 1990, Mr. Ronald Vesely petitioned the Commission for release from electric service provided by Minnesota Valley Electric Cooperative (Minnesota Valley or the Co-op). Mr. Vesely wished to become a customer of Northern States Power Company (NSP or the Company). Mr. Vesely's property was and is part of the assigned service territory of Minnesota Valley.

In his petition Mr. Vesely cited the following reasons for a release from Co-op service: he had been denied a release by Minnesota Valley; his service had been poor; the Co-op's off-peak rates were unfair; Minnesota Valley had failed to answer the telephone during power outages; the Co-op charged for meter reading; and the Co-op provided low interest loans to certain customers.

On February 14, 1990, the Co-op submitted a response to Mr. Vesely's petition. In its filing, the Co-op stated that it would deny Mr. Vesely's request for the following reasons: poor service by the Co-op had not been a problem during 1989; since Minnesota Valley is a cooperative, the loss of even one member places a greater financial burden on the remaining members; if Mr. Vesely wished to change his electric service, he should file a complaint with the Commission.

On February 20, 1990, Commission staff sent Mr. Vesely a letter in which his request was denied.

On March 21, 1990, Mr. Vesely submitted another request for a change in electric service from the Co-op to NSP. Mr. Vesely stated that although Minnesota Valley supplied him with single-phase electric service, he now has a need for three-phase power to run a three-phase welder on his property. Mr. Vesely uses the

welder on a part-time basis in a machine shop located on his premises. Mr. Vesely gave the following reasons for his requested change: the Co-op does not have a three-phase line in his area; NSP's substation with three-phase capacity is nearby; NSP can provide him with three-phase service at a lower cost than Minnesota Valley.

On July 11, 1990, the Department of Public Service (the Department) recommended denying Mr. Vesely's petition.

On July 18, 1990, Mr. Vesely submitted further comments, in which he requested a "fair hearing" regarding a change in service for himself and two other Co-op customers.

On July 23, 1990, NSP filed comments in which the Company stated that it was able to provide Mr. Vesely with three-phase service, but would not do so unless the Co-op agreed or the Commission ordered the change.

On August 23, 1990, the Co-op submitted reply comments. On October 10, 1990, the Department filed its reply comments.

The matter came before the Commission on November 7, 1990.

FINDINGS AND CONCLUSIONS

The Governing Statute

Minnesota Stat. § 216B.39 governs assigned service areas. Under this statute there is a presumption of integrity of the assigned service areas. Only after notice and hearing may the Commission, on its own or at the request of an electric utility, make changes in the service area boundaries.

Alternative Actions

In its August 30, 1990 comments, Minnesota Valley stated that it would need to investigate the matter further to determine if three-phase service were necessary for Mr. Vesely. In the event that such service were found necessary, the Co-op wished the following options to be considered:

1. The Co-op could extend three-phase service to Mr. Vesely at a cost to him of \$4,290.
2. Mr. Vesely could purchase a single-phase welder, or install a phase converter to run his existing three-phase welder with single-phase current.

3. NSP could install three phase-service to Mr. Vesely, while leaving single phase-service to the Co-op.

NSP indicated its preference for the third option. Mr. Vesely stated that he did not wish to pursue this option because he did not want to receive bills from two different electric utilities.

Commission Action

Minn. Stat. § 216B.37 states the legislative purposes behind the enactment of the assigned service area statute in 1974. The Minnesota Court of Appeals has cited these legislative purposes as the criteria by which a service area petition is judged:

The burden is on the petitioner to show that the requested modification is in the public interest. To meet its burden, the petitioner must at least show that modifying the service area boundaries will "encourage the development of coordinated statewide electric service," "avoid unnecessary duplication of electric utility facilities," or promote the delivery of more efficient and cost-effective electric service.

In the Matter of City of White Bear Lake's Request for an Electric Utility Service Area Change within its City Limits and In the Matter of the Petition of Northern States Power Company for an Electric Utility Service Area Change within the City of White Bear Lake, 443 N.W.2d 204, 207 (Minn. App. 1989).

The Commission is therefore authorized and obligated to change assigned service areas when the public interest requires it. The controlling factor is the public interest in the broad sense in which that term is used in the service area statutes. Determining the public interest under those statutes requires focusing on the purposes for the service area system, as listed in statute and cited in Court opinion.

Though Mr. Vesely as an individual would benefit from receiving the precise form of electric service he wishes from the provider he wishes, this benefit would be minimal. Mr. Vesely has a viable option open to him which would allow him to receive his desired service from NSP while retaining the former service from the Co-op.

The broad public interest would not be served by a change in electric service area to accommodate Mr. Vesely. There would be no avoidance of duplication of facilities, since it is possible to assign single-phase service to the Co-op and three-phase service to NSP. Changing the service area would do nothing to promote economical, efficient, and adequate electric service to the general public. Neither would the change encourage the development of coordinated statewide electric service. Based

upon the standards enumerated in the service area statute and cited in Court opinion, the Commission will deny Mr. Vesely's request.

While the Commission will deny the request, it also recognizes the frustration Mr. Vesely feels. NSP's three-phase line actually crosses the petitioner's property. Without the constraints of the service area statute, it might seem best to allow NSP rather than the Co-op to serve this individual. The Commission agrees with the sound reasons behind the service area statute. At the same time, however, the Commission urges the two utilities to work closely with the petitioner to explore every option and hopefully to arrive at a solution which is acceptable, workable and logical.

ORDER

1. The petition of Mr. Ronald Vesely to receive electric service from Northern States Power instead of Minnesota Valley Electric Cooperative is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)